

Summary

S652, Telecommunications Act of 1996

On February 1, 1996, the House of Representatives and Senate approved the House/Senate conference agreement on S652, the Telecommunications Act of 1996, by votes of 414-16 and 91-5, respectively. The bill was signed by the President one week later to become Public Law 104-104.

In general, the bill changes current communications law to eliminate the legal barriers that prevent telephone, cable TV, and other companies from competing in each other's markets. S652 allows the regional Bell companies to enter long-distance service, electronic publishing, and equipment manufacturing. Allowing for the entry of telephone companies into video delivery, the bill also deregulates cable TV services and rates. The legislation further permits a single entity to own TV stations that reach up to 35% of US households as well as increased foreign ownership of US telephone companies.

As an omnibus reform of U.S. communications law, the bill contains many provisions which touch a myriad of issues, markets and industries. The following list of provisions in the bill which may have an affect - directly or indirectly - on CEMA member companies is not an exhaustive rendering of the bill.

Local Telephone

Competition - The regional Bell companies (RBOC's) will be required to allow competition using their local network (as would any new entrant into the local phone market), thus breaking up the monopoly the baby Bell's have held on local telephone service.

Interconnection - Any local phone company will have to allow resale of its services and give competitors access to its poles, conduits and rights of way. Local phone companies must permit customers to keep their individual phone numbers - even when changing service providers. Local phone companies are required to make dialing as easy for customers of other service providers as for their own.

Universal Service - Local phone companies are required to offer a minimum package of telecommunications services to customers at a "just, reasonable and affordable" price. The FCC will decide what types of services must be offered to all parts of the country and will maintain oversight of universal service, providing updates to the required minimum as technology changes and improves.

Long Distance

RBOC Entry - the RBOC's will be allowed to enter the long distance market for the first time since the 1984 Modified Final Judgement breaking up AT&T. Prior to entering long distance,

the RBOC's must show that they have opened their local networks to viable competition.

Miscellaneous Telephone

Manufacturing - RBOC's will be permitted to manufacture telephone equipment once they have been approved to offer long distance services. They had also been prohibited from manufacturing under the 1984 Modified Final Judgement.

Public Utilities - Public utilities will be allowed to offer telecommunications services under the jurisdiction of the FCC and state regulatory authorities.

Electronic Publishing/Alarm Monitoring - Bell companies will be allowed to provide electronic publishing services through a separate subsidiary. RBOC's will also be permitted to provide online alarm monitoring after five years (Ameritech is exempted since it already provides alarm monitoring).

Cable TV

Deregulation - S652 deregulates cable rates for services beyond the basic tier after three and a half years for major cable systems. Small systems - under 50,000 subscribers - are deregulated immediately. Cable companies can forego the waiting period if a telephone company enters their market and provides video programming to a comparable number of subscribers.

Telephone Companies - The act permits telephone companies to offer video services. Telephone companies entering the video delivery market will be regulated according to the transmission method they use (cable, wireless, etc.)

Open Video System - S652 creates an entity called an "open video system" which can avoid considerable regulation by turning over at least two-thirds of its capacity to unaffiliated programming.

Eshoo Provision - The Eshoo provision remains in tact as passed by the House Commerce Committee. The provision has a potentially chilling - if not deadly - effect on the current decoder interface negotiations to allow for compatibility among TVs, VCRs, and cable systems. CEMA worked diligently with Rep. Eshoo and proponents of the provision to ameliorate the negative effects, but parties favoring the legislation were unwilling to make any changes.

Competitive Availability of Set-Top Devices - The conference agreement retained what was section 203 of HR1555 as passed by the House. This section, which was not included in the Senate bill, provides for the separation of security from all other features and functions associated with set-top navigation devices, allowing for a dynamic competitive market in set-top boxes through third-party non-affiliated retail vendors as well as manufacturers and service providers.

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Broadcasting

ATV Spectrum - The final bill gives broadcasters additional "spectrum flexibility" in the use of their ATV channels. That flexibility, however, is limited to "ancillary and supplementary" uses, provided the use is consistent with provision of advanced television services and avoids derogation of ATV services, including HDTV. The provisions limit the initial ATV licenses to current broadcasters and require that the FCC use penetration of ATV television receivers or potential loss of reception (NTSC) to a substantial portion of the public as criteria for the surrender by broadcasters of their analog licenses. Most importantly, CEMA worked to ensure that the Telecommunications Act of 1996 is silent on ATV spectrum auctions - a particularly controversial issue in recent weeks. Rather than stopping the HDTV process, as some influential Members of Congress had suggested, the bill allows the process to advance. The issue of ATV spectrum auctions will be discussed further in Congress and at the Administration. In the meantime, there are not likely to be any actual assignments of ATV channels until this matter is resolved.

Media Concentration - Networks will be allowed to own stations which reach up to 35% of the U.S. households - up from former 25% limit. A cap on owning more than 20 FM and 20 AM radio stations would be lifted, but the bill maintains limits on how many radio stations a single company can own in a particular market.

Satellite TV - The FCC is given exclusive jurisdiction to regulate satellite TV broadcasts.

Content

TV Violence - Both House and Senate bills went into the conference with V-Chip mandates. Included in the House bill was a second provision which was designed to encourage the establishment of a private sector technology fund by the television industry in order to help develop and bring to market parental control technologies. The conference agreement includes both a V-Chip requirement and the technology fund language. During discussion of this issue, a number of positive changes suggested by CEMA were made to the V-Chip provisions including 1) an extended period (2 years) during which no hardware mandate can be implemented; 2) removal of a requirement to have time, channel, and program blocking features in all TV's; 3) accommodation for alternative technology and future technologies; 4) provisions requiring FCC consultation with TV manufacturers (and in some cases limiting the FCC to an oversight role) in setting standards and implementation dates.

Online Obscenity - The bill bans the dissemination of "indecent" material via online services and the Internet. It provides a legal defense for services and Internet access providers if they made a good faith effort to block indecent material

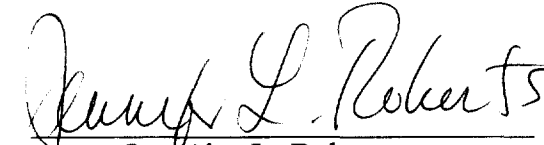
Accessibility

Video Programming - The FCC is required to ascertain the level at which video programming is closed captioned and report to Congress. Within 18 months after enactment of the new law, the FCC must adopt regulations 1) requiring all new video programming to be closed captioned and 2) program providers to maximize the accessibility of their pre-existing video programming through closed captioning. The FCC is also required to study the use of video descriptions to ensure accessibility of video programming to individuals with visual impairments and report to Congress with suggestions on how video descriptions should be "phased" into the marketplace.

Equipment - The new law requires that "to the extent readily achievable," manufacturers of consumer premises equipment (CPE) or telecommunications equipment must ensure that their equipment can be accessed by disabled individuals. Within 18 months of enactment, the Architectural and Transportation Barriers Compliance Board must develop guidelines for access to telecommunications equipment and CPE.

CERTIFICATE OF SERVICE

I, Jennifer L. Roberts, do hereby certify on this 17th day of April, 1996, that I have served a copy of the foregoing document, via hand delivery, to the parties listed below:


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